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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,474	10/20/2003	Bruce P. Konen	1110-0462	7873

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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05/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,474

Applicant(s)

KONEN, BRUCE P.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment received on 02/15/07.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Dickey et al. (5,371,947).

Saltus-Werk discloses the invention substantially as claimed including:

- Claim 1; a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a first gear 13, a second gear 15, a drive gear 18 and a main shaft 16.

Regarding claim 1, 3 and 5, Saltus-Werk does not show a torque arm with first, second and third portions adjacent to the handle; a torque arm clamp and an attachment element with a hook. However, Dickey et al. teaches the use of a torque arm 11 with first (left side of the support yoke 14), second (right side of the support yoke 14) and third portions (center portion of the support yoke 14) adjacent to the handle (see Fig. 1), a torque arm clamp 13 and an attachment element with hook 14 for the purpose of providing secure of the drill. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have

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modified Saltus-Werk's cutter by providing the torque arm, the torque arm clamp and the attachment element with the hook as taught by Dickey et al. in order to obtain a better secure of the drill. Regarding claim 1; Dickey et al. shows the torque arm is adjacent to the *lateral* sides of the grip portion (see Fig. 1). Regarding claim 5, Dickey et al. shows the torque arm slidably connected to the torque arm (see Fig. 4, where the flanges 11 slide relative to the axle 13).

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Dickey et al. (5,371,947) as applied to claim 1 above, and further in view of Rudolf et al. (6,155,916).

The modified device of Saltus-Werk discloses the invention substantially as claimed except for a stabilizing handle that can be attached to left and right sides of the housing. However, Rudolf et al. teach the use of a stabilizing handle 30 that can be attached to left and right sides (see Fig. 1, col. 5, lines 64-67; and col. 6, lines 1-3) of the housing for the purpose of allowing right and left hand operators to use the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified Saltus-Werk's device by providing the stabilizing handle as taught by Rudolf et al. in order to obtain a device that can be used by right and left hand operators.

Allowable Subject Matter

5. Claim 13 is allowed.

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6. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that neither Saltus-Werk and Frod et al teaches a drive gear that is mounted on the main shaft and engageable with one of the cutting blades. However, there is no language in the claims that the drive gear is directly engageable with one of the cutting blades, for that reason, Saltus-Werk teaches the drive gear 18 engageable (by gears 20 and 22) with one of the cutting blades.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Trumbull et al. is cited to show a related device.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ofs
4/24/07


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER